

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 55a	- 302f
Changed to Admin. Code Ref. (R no.):	R	-	-

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dan S. Jones	801-530-6720	801-530-6511	dansjones@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):
	Pre-licensure Education - Standards
3.	Type of notice:
	New ____; Amendment XXX; Repeal ____; Repeal and Reenact ____
4.	Purpose of the rule or reason for the change:
	This proposed rule change is made to add a section to the Construction Trades Licensing Act Rule as a result of changes made by S.B. 186 passed during the 2014 Legislative Session. S.B. 186 added an additional requirement for contractor licensing of completion of a 20-hour course as established by rule.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	No XXX; Yes ____
6.	Summary of the rule or change:
	Section 302f is added and establishes the standards for the 20-hour pre-licensure education requirement. The standards are divided into 12 subsections titled as follows: qualifier education requirement, program pre-approval, eligible providers, content, program schedule, program instruction requirements, certificates of completion, reporting of program completion, program monitoring, documentation retention, disciplinary proceedings and exemptions.
7.	Aggregate anticipated cost or savings to:
	A) State budget:
	Affected: No ____; Yes XXX

	The Division will incur minimal costs of approximately \$75.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.		
	B) Local government:		
	Affected:	No XXX; Yes ____	
	The proposed amendments only apply to individuals who are applying to be a qualifier for new contractor licensing applicants. As a result, the proposed amendments do not apply to local governments.		
	C) Small businesses ("small business" means a business employing fewer than 50 persons):		
	Affected:	No XXXX ____; Yes ____	
	These proposed rule amendments do not add any costs to what was contemplated by the Legislature in adding the new requirement for contractor licensure. Persons applying for the contractor license will be required to take the new education requirement prior to becoming licensed. Potential education providers have not yet determined the cost they will charge for the education program. However, the cost per person could be several hundred dollars. This requirement would affect approximately 1,000 contractor applicants per year.		
	D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):		
	Affected:	No XXX; Yes ____	
	These proposed rule amendments do not add any costs to what was contemplated by the Legislature in adding the new requirement for contractor licensure. Persons applying for the contractor license will be required to take the new education requirement prior to becoming licensed. Potential education providers have not yet determined the cost they will charge for the education program. However, the cost per person could be several hundred dollars. This requirement would affect approximately 1,000 contractor applicants per year.		
8.	Compliance costs for affected persons:		
	These proposed rule amendments do not add any costs to what was contemplated by the Legislature in adding the new requirement for contractor licensure. Persons applying for the contractor license will be required to take the new education requirement prior to becoming licensed. Potential education providers have not yet determined the cost they will charge for the education program. However, the cost per person could be several hundred dollars. This requirement would affect approximately 1,000 contractor applicants per year.		
9.	A) Comments by the department head on the fiscal impact the rule may have on businesses:		
	This filing responds to legislative action taken in the 2014 General Session (SB 186), which mandates that the Division require a 20-hour course as a prerequisite for licensure in the construction trades. Businesses that wish to provide the course will incur costs to develop curriculum; to obtain approval from the Division; and, if not already operating in Utah, to establish a campus within the state. Any such costs were contemplated by the Legislature in determining to require the course.		
	B) Name and title of department head commenting on the fiscal impacts:		
	Francine A. Giani, Executive Director		
10.	This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.		
	State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :		
	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	
	Section 58-55-101	Subsection 58-55-308(1)(a)	
	Subsection 58-55-102(39)(a)		
11.	This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i>):		
		First Incorporation	Second Incorporation
	Official Title of Materials Incorporated (from title page)		
	Publisher		
	Date Issued		
	Issue, or version		

	ISBN Number (optional)		
	ISSN Number (optional)		
	Cost of Incorporated Reference		
	Action: Adds, updates, or removes		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	10/01/2014	
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	09/24/2014	9:00 AM	160 East 300 South, Conference Room 474 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):		10/08/2014
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:		
	contractors	occupational licensing	
	licensing		
15.	Attach an RTF document containing the text of this rule change (filename):		R156-55a.pr2
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	08/08/2014

R156. Commerce, Occupational and Professional Licensing.

R156-55a. Utah Construction Trades Licensing Act Rule.

R156-55a-302f. Pre-licensure Education - Standards.

(1) Qualifier Education Requirement. The 20-hour pre-licensure education program required by Subsection 58-55-302(1)(e)(iii) shall be completed by the qualifier for a contractor applicant.

(2) Program Pre-Approval. A pre-licensure education provider shall submit an application for approval as a provider on the form provided by the Division. The applicant shall demonstrate compliance with Section R156-55a-302f.

(3) Eligible Providers. The following may be approved to provide pre-licensure education:

(a) a nationally or regionally recognized accredited college or university having a physical campus located within the State of Utah; or

(b) a non-profit Utah construction trades association involved in the construction trades in the State of Utah representing multiple construction trade classifications whose membership includes at least 250 contractors licensed in Utah.

(4) Content. The 20-hour program shall include the following topics and hours of education relevant to the practice of the construction trades consistent with the laws and rules of this state:

(a) ten hours of financial responsibility instruction that includes the following:

(i) record keeping and financial statements;

(ii) payroll, including:

(A) payroll taxes;

(B) worker compensation insurance requirements;

(C) unemployment insurance requirements;

(D) professional employer organization (employee leasing) alternatives;

(E) prohibitions regarding paying employees on 1099 forms as independent contractors, unless licensed or exempted;

(F) employee benefits; and

(G) Fair Labor Standard Act;

(iii) cash flow;

(iv) insurance requirements including auto, liability, and health; and

(v) independent contractor licensure and exemption requirements;

(b) six hours of construction business practices that includes the following:

(i) estimating and bidding;

(ii) contracts;

(iii) project management;

(iv) subcontractors; and
(v) suppliers;
(c) two hours of regulatory requirements that includes the following:

(i) licensing laws;
(ii) Occupational Safety and Health Administration (OSHA);
(iii) Environmental Protection Agency (EPA); and
(iv) consumer protection laws; and
(d) two hours of mechanic lien fundamentals that include the State Construction Registry.

(5) Program Schedule.
(a) A pre-licensure education provider shall offer programs at least 12 times per year.

(b) The pre-licensure education provider is not obligated to provide a course if the provider determines the enrollment is not sufficient to reach breakeven on cost.

(6) Program Instruction Requirements: The pre-licensure education shall meet the following standards:

(a) Time. Each hour of pre-licensure education credit shall consist of 60 minutes of education in the form of live lectures or training sessions. Time allowed for lunches or breaks may not be counted as part of the education time for which education credit is issued.

(b) Learning Objectives. The learning objectives of the pre-licensure education shall be reasonably and clearly stated.

(c) Teaching Methods. The pre-licensure education shall be presented in a competent and well organized manner consistent with the stated purpose and objective of the program. The student must demonstrate knowledge of the course material and must be given a pass/fail grade.

(d) Faculty. The pre-licensure education shall be prepared and presented by individuals who are qualified by education, training or experience.

(e) Distance Learning. Distance learning, internet courses, and home study courses are not allowed to meet pre-licensure education requirements.

(f) Registration and Attendance. The provider shall have a competent method of registration and verification of attendance of individuals who complete the pre-licensure education.

(g) Education Curriculum and Study/Resource Guide. The provider shall be responsible to provide or develop pre-licensure education curriculum and study/resource guide for the pre-licensure education that must be pre-approved by the Commission and the Division prior to use by the provider.

(7) Certificates of Completion. The pre-licensure education provider shall provide individuals completing the pre-

licensure education a certificate that contains the following information:

- (a) the date of the pre-licensure education;
- (b) the name of the pre-licensure education provider;
- (c) the attendee's name;
- (d) verification of completion of the 20-hour requirement;

and

- (e) the signature of the pre-licensure education provider.

(8) Reporting of Program Completion. A pre-licensure education provider shall, within seven calendar days, submit directly to the Division verification of attendance and completion on behalf of persons attending and completing the program. This verification shall be submitted on forms provided by the Division.

(9) Program Monitoring. On a random basis, the Division or Commission may assign monitors at no charge to attend a pre-licensure education course for the purpose of evaluating the education and the instructor(s).

(10) Documentation Retention. Each provider shall for a period of four years maintain adequate documentation as proof of compliance with this section and shall, upon request, make such documentation available for review by the Division or the Commission. Documentation shall include:

(a) the dates of all pre-licensure education courses that have been completed;

(b) registration and attendance logs of individuals who completed the pre-licensure education;

(c) the name of instructors for each education course provided as a part of the program; and

(d) pre-licensure education handouts and materials.

(11) Disciplinary Proceedings. As provided in Section 58-1-401 and Subsection 58-55-302(1)(e)(iii), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any pre-licensure education provider, if the pre-licensure education provider fails to meet any of the requirements of this section or the provider has engaged in other unlawful or unprofessional conduct.

(12) Exemptions. In accordance with Subsection 58-55-302(1)(e)(iii), the following persons are not required to complete the pre-licensure education program requirements:

(a) a person holding a four-year bachelor degree or a two-year associate degree in Construction Management from an accredited program;

(b) a person holding an active and unrestricted Utah professional engineer license who is applying for the E100 contractor license classification; or

(c) a person who is a qualifier on an existing active and unrestricted contractor license who is:

(i) applying to add additional contractor classifications to the license; or

(ii) applying to become a qualifier on a new entity that is applying for initial licensure.

KEY: contractors, occupational licensing, licensing

**Date of Enactment or Last Substantive Amendment: [~~January 21,~~
]2014**

Notice of Continuation: October 4, 2011

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)